

1 JOSEPH P. RUSSONIELLO (CSBN 44332)  
2 United States Attorney

3 BRIAN J. STRETCH (CSBN 163973)  
4 Chief, Criminal Division

5 JEFFREY B. SCHENK (CSBN 234355)  
6 Assistant United States Attorney

7 150 South Almaden Boulevard, Suite 900  
8 San Jose, California 95113  
9 Telephone: (408) 535-2695  
10 Facsimile: (408) 535-5081  
11 jeffrey.b.schenk@usdoj.gov

12 Attorneys for the United States

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14 UNITED STATES DISTRICT COURT  
15 NORTHERN DISTRICT OF CALIFORNIA  
16 SAN JOSE DIVISION

17 UNITED STATES OF AMERICA, ) No. CR 08-00088 JW  
18 Plaintiff, )  
19 v. )  
20 DAVID LOUIS BEHAR, )  
21 LINDSAY ROBIN HOGUE, )  
22 TARA BERGSTRAND, and )  
23 JOHN ROGER LAGACE )  
24 Defendants. )  
25 \_\_\_\_\_ )  
26 IT IS HEREBY STIPULATED and requested by the parties that the court sign the  
27 attached proposed order regarding the retesting of representative samples of alleged Lysergic  
28 acid diethylamide (LSD) by the defense expert in this case.

25 It is so stipulated.

26 Dated: \_\_\_3/4/08\_\_\_\_\_

27 /s/ \_\_\_\_\_  
28 JEFFREY B. SCHENK  
Assistant U.S. Attorney

1 It is so stipulated:

2 Dated: \_\_3/4/08\_\_\_\_\_

/s/  
PETER LEEMING  
Attorney for Mr. Behar

4 It is so stipulated:

5 Dated: \_\_3/4/08\_\_\_\_\_

/s/  
GEOFFREY BRAUN  
Attorney for Ms. Hogue

7 It is so stipulated:

8 Dated: \_\_3/4/08\_\_\_\_\_

/s/  
MANUEL ARAUJO  
Attorney for Ms. Bergstrand

10 It is so stipulated:

11 Dated: \_\_3/4/08\_\_\_\_\_

/s/  
JERRY FONG  
Attorney for Mr. Lagace

## 14 ORDER

15 UPON THE DEFENDANT'S REQUEST for an order which requires the Government to  
16 produce the following exhibits, to wit:

17 Exhibit Number

DEA Laboratory Number

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7144015

19 6

7144020

20 as reported in DEA FORM-7, REPORT OF DRUG PROPERTY COLLECTED, PURCHASED  
21 OR SEIZED, having the Case File No. RC 08-0009, and dated November 30, 2007, for  
22 qualitative analysis and identification of the controlled substance contained therein by a defense  
23 expert,

24 IT IS HEREBY ORDERED and DECREED that Drug Enforcement Administration (DEA)  
25 Special Agent or Task Force Officer shall deliver the drug exhibit(s) identified above to Judith  
26 Stewart, DEA License No. RF1093778, of Forensic Analytical Sciences, Inc., located at 3777  
27 Depot Road, Suite 403, Hayward, CA 94545, telephone no. 510-266-8100. The DEA Western  
28 Laboratory shall arrange the delivery of said representative sample(s) on or before March 7,

1 2008 to the DEA Special Agent or Task Force Officer for delivery to Judith Stewart of the  
2 Forensic Analytical Sciences, Inc. Laboratory; and

3 IT IS FURTHER ORDERED, that upon said delivery of the exhibit(s) identified above to the  
4 defense expert, that a DEA Special Agent or Task Force Officer shall be present when the  
5 defense expert inspects, weighs and removes a representative sample of the exhibit(s) identified  
6 above for analysis. The representative sample shall be in an amount not to exceed 500 mgs from  
7 each of the above-described exhibit(s). The weight of each representative sample taken shall be  
8 documented and signed by the defense expert and provided to the DEA Special Agent or Task  
9 Force Officer in attendance. Upon the completion of the sample removal and weighing, the  
10 DEA Agent and Task Force Officer in attendance shall, forthwith, return the remaining above-  
11 listed exhibit(s) to the DEA Western Laboratory; and

12 IT IS FURTHER ORDERED, that the defense expert shall conduct the qualitative analyses  
13 and identification ordered herein, and shall provide the Government with an *Unsworn*  
14 *Declaration Under Penalty of Perjury*, under 28 U.S.C. § 1746, executed by the individual who  
15 conducted the analyses, or the head of the facility where the analyses occurred, which states the  
16 quantity of each exhibit consumed during testing, and either the weight of each exhibit returned  
17 to the Government, or a statement that all of the sample was consumed during testing; and

18 IT IS FURTHER ORDERED, that all remaining material of the sample(s), after testing, is to  
19 be returned by Judith Stewart to the DEA Western Laboratory via registered U.S. Mail, return  
20 receipt requested, or approved commercial carrier, with five (5) business days after the  
21 completion of analyses; and

22 IT IS FURTHER ORDERED, in accordance with FED. R. CRIM. P. 16(b)(1)(B), that the  
23 defendant shall provide the Government with a copy of the results or report of the physical  
24 examinations and scientific tests or experiments which results from the analyses conducted under  
25 this Order; and

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1 IT IS FURTHER ORDERED, that Judith Stewart is to safeguard the representative sample(s)  
2 received, preserving the chain of custody in a manner to faithfully protect the integrity of each  
3 exhibit received.

4 SO ORDERED this \_\_\_\_\_ day of March 2008.

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6 BY THE COURT:  
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10 UNITED STATES DISTRICT JUDGE